

REMARKS

Claims 1, 11-13, and 16 are now pending in the application.

Rejections Under 35 USC 102(b)

The Official Action rejected Claims 1, 11-13 and 16 under 35 USC 102(b) as being anticipated by Trull (hereinafter “Trull”). This rejection is respectfully traversed.

Applicants’ invention of Claim 1 is directed to a syringe including a plunger having: a cylindrical wall having an inner surface and an outer surface, the inner surface defining a retaining shoulder formed and extending along the circumference of the cylindrical wall; and

a plurality of inwardly projecting flanges fixedly disposed on and radially spaced along the inner surface of the cylindrical wall, the plurality of inwardly projecting flanges extending in a longitudinal direction proximal to the retaining shoulder,

wherein the inwardly projecting flanges are continuously supported in the longitudinal direction by the inner surface of the cylindrical wall.

The Office Action indicates that in Figures 2 and 4 Trull discloses a syringe having a body and a plunger 24 comprising a wall/base member 80 having an outer surface 82 and inner surface 80 defining a retaining shoulder 86 and inwardly projecting flanges/connection members 30 which are fixedly disposed on the retaining shoulder spaced along the inner surface of the cylindrical wall; wherein at least one retaining member on the drive member is adapted to engage with the retaining shoulder to enable the drive member to retract the plunger.

However, for a prior art reference to anticipate a claim, the reference must disclose each and every element of the claim with sufficient clarity to prove its existence in prior art. The disclosure requirement under 35 USC 102 presupposes knowledge of one skilled in art of claimed invention, but such presumed knowledge does not grant license to read into prior art reference teachings that are not there. See Motorola Inc. v. Interdigital Technology Corp., 43 USPQ2d 1481 (CAFC 1997).

Trull does not teach each and every element of Applicants' claims. Trull discloses a plunger body 80 that has a cover 82 and the cover has an outer circumferentially continuous edge surface 84. (see Col. 7, lines 9-14). Further, Trull discloses in Fig 4 that:

The proximal face 86 of the plunger body includes a circumferential surface portion 88. An array of circumferentially spaced-apart flexible resilient engagement members 30 is joined to the circumferential surface portion 88 of the proximal face of the plunger body and rearwardly extends therefrom to a rearmost extremity 90. Each of the flexible resilient members has a shank portion 92 rearwardly extending from the circumferential surface portion 88 and terminating in a tail hook portion 94 including a transversely and radially inwardly extending retention surface 96 for matably engaging with a rear circumferential surface of the driving head of the injector when the driving head is operatively coupled with the plunger. Each tail hook portion at the retention surface 96 is of increased thickness (in the lateral dimension transverse to the length dimension of the flexible resilient engagement member) relative to the shank portion 92 of such member. The tail hook portion is of tapering character from the region of the retention surface 96 in the rearward direction toward the rearmost extremity 90 thereof, and the tail hook portion has in the embodiment shown a convexly shaped inner engagement surface 98 for contacting the frustoconical shaped driving head to circumferentially compressively engage the frustoconical side surface of the driving head with the transversely and radially inwardly extending retention surface 96 engaged with a rear circumferential surface of the driving head when the driving head is engaged with the plunger. The array of flexible resilient engagement members 30 is circumferentially arranged on the circumferential surface portion 88 of the proximal face 86 of the plunger body so that the flexible resilient engagement members are radially inwardly spaced from the outer circumferentially continuous hedge surface of the plunger. The purpose of such radial inset of the engagement members 30 is so that such engagement members do not contact interior surfaces of the syringe barrel during translation of the plunger forwardly or rearwardly through the syringe barrel. (Col. 7, lines 18-53)

Essentially, Trull does not disclose Applicants' invention as alleged in the Office Action, for example, "inwardly projecting flanges/connection members 30 which are fixedly disposed on the retaining shoulder spaced along the inner surface of the cylindrical wall." Rather, Trull discloses flexible resilient engagement members 30 that extend from the circumferential surface portion 88. These members 30 are flexible and terminate with a hook 94 that is completely different from the "a plurality of inwardly projecting flanges fixedly disposed on and radially spaced along the inner surface of the

cylindrical wall” of Applicants’ invention. Trull discloses that the flexible resilient engagement members 30 are flexible and not fixedly disposed as in Applicants’ invention.

Further, Trull does not disclose “wherein the inwardly projecting flanges are continuously supported in the longitudinal direction by the inner surface of the cylindrical wall” of Applicant’s invention of Claim 1. Specifically, the Office Action alleges that “since portion 88 is a component of 80 (the inner wall), it is clear that Trull disclose the flanges being supported by the inner surface of the cylindrical wall.” (Page 3, para 3, 6-7). However, circumferential surface portion 88 is disposed on the proximal face 86 of the plunger (see Col, 7, lines 17-18), and therefore does not extend in any longitudinal direction. Accordingly, the members 30 of Trull are flexible and extend rearwardly such they are not supported in the longitudinal direction along the inner surface. Thus, Trull does not anticipate Applicants’ invention of Claim 1.

Additionally, Trull does not disclose Applicants’ invention of Claim 13, including “a cylindrical wall having an inner surface defining a retaining shoulder formed along an axial length thereof; and

a plurality of inwardly projecting flanges fixedly extending from the retaining shoulder and continuously supported by the inner surface in a longitudinal direction.” Trull instead discloses a circumferential portion 88 wherein flexible engagement members extend therefrom in a rearward direction. This is entirely different from the novel structure of Applicants’ invention of Claim 13 that includes inwardly projecting flanges fixed and continuously supported. Reconsideration is requested.

Further, regarding Claims 11, 12 and 16, Claims 11, 12 and 16 depend from Claims 1 or 13, which as discussed are believed to be allowable. Accordingly, Claims 11, 12 and 16 are also believed to be allowable.

REQUEST TO WITHDRAWAL THE FINALITY OF THE REJECTION

Applicant requests that the finality of the rejection be withdrawn. Applicant amended the claims submitted with an RCE on October 29, 2007. The amendment to the claims included amending independent claims to include subject matter supported in the originally filed specification and drawings, but not claimed in the claims previously. Thus, these amended claims filed October 29, 2007 were drawn to an invention that was not the same invention claimed in the earlier Application. Accordingly, Applicant requests reconsideration of the finality of the rejection of the Office Action.

In view of the above amendments and remarks, Applicant submits that the claims are in condition for allowance. Notice to that effect is hereby requested.

Respectfully submitted,

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